

REMARKS

The Applicant has reviewed the Examiner's rejection, but believes that the invention, as claimed, is distinguished from the art cited by the Examiner. In particular, none of the cited art shows nor makes obvious a tire having recesses that are adapted to cause the tire to rotate. The Examiner has referred to Hursh, U.S. Patent No. 2,457,899, as disclosing these indentations but, Hursh, like the art previously cited by the Examiner, relies on an outwardly extending surface to "catch" the wind at the lower portion of the tire to cause forward rotation thereof. Hursh uses flaps for this purpose. The pockets to which the Examiner refers, are not adapted to cause the tire to rotate, but are merely used to receive the flap as it approaches the top of the tire. Hursh does not disclose a leading wall that extends inwardly from the sidewall adapted to increase wind resistance at the lower portion of the tire and reduce wind resistance of the recesses at the top of the tire. Instead, Hursh employs a hinged flap that rotates to extend outward from the surface of the tire to catch the wind.

To further distinguish the Applicant's invention, claim 1 has been amended to state that the front wall is fixed and the indentation remains open to the atmosphere throughout rotation of the tire. In contrast, the flap, in Hursh, is of necessity moveable to perform its wind catching function. Also, Hursh relies on the flap fitting into and covering the pocket to reduce wind resistance, when reaching the top of the tire. An indent that remains open to the atmosphere throughout rotation of the tire is, therefore, not shown. Also, with the clarification that the Applicant's front wall is fixed, it is more apparent that the perpendicular extension of the front wall, as claimed in claim 3, is not disclosed by Hursh. Again, to allow Hursh's flap to open and close, the flap must be able to rotate and thus does not hold a fixed perpendicular angle.

The Applicant believes that these amendments further distinguish the applied art, and place the claims in condition for allowance. Alternatively, the Applicant believes that these amendments reduce the number of issues for appeal by clarifying that the Applicant's invention is limited to an indented assembly that imparts rotation to the tire. Consequently, the Applicant requests entry of the amendments and reconsideration of the amended claims.

To reduce the number of claims at issue, claim 6 has been cancelled without prejudice or disclaimer.

With respect to claims 7 and 8, the Examiner indicates that these claims are obvious over Hursh in view of Cabeza¹, but has not provided a teaching that shows the claimed reduction in indentation size as one moves radially inward on the sidewall, or circumferential offset of the rows of indentations. Consequently, a *prima facie* case of obviousness has not been made. These arguments were raised in the previous Response, but were not addressed by the Examiner's present Office Action. The Examiner has argued that there is motivation to combine the Hursh and Cabeza patents, but without the any teaching of the size reduction and offset, one of ordinary skill would not be able to arrive at the claimed invention.

With respect to claim 8, the unsupported remark that one of ordinary skill could vary the size of the indents to provide the desired level of performance for a particular situation does not provide the necessary teaching either. Assuming that the Examiner is correct in this statement, one of ordinary skill still would not possess a teaching that would cause him or her to reduce the indentation size across the rows, as described in claim 8. Consequently, claims 7 and 8 are not obvious. Since these claims contain allowable subject matter, to place them in condition for allowance, they have been rewritten in independent form.

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As a first matter, as described above, neither Hursh nor Cabeza show indentations having a leading (front) wall, as claimed. Further basis for allowability is believed to be found in the features of claims 7 and 8, and, thus, the Applicant's response will proceed with a discussion of those features.

Application No.: 10/696,925
Reply to Office Action of September 22, 2004
Docket No.: TND.P.0001

Since the claims may now be reviewed independently of the claims from which they depend, they have been placed in better condition for appeal. Consequently, the Applicant requests entry of the amendments to claims 7 and 8, and reconsideration thereof.

Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,



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